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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/632,003

07/30/2003

Scott F. Watson

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EXAMINER

MONTOYA, OSCHTA I

ART UNIT

PAPER NUMBER

2421

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/632,003	<b>Applicant(s)</b> WATSON ET AL.	
	<b>Examiner</b> OSCHTA MONTOYA	<b>Art Unit</b> 2421	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 74-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 74-95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/09/2011 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 74-95 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 74, 76-79 and 81-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh, US 2003/0233241 in view of Lawler et al., US 2005/0160452.

Regarding claim 74, Marsh discloses a method of presenting media assets by a remote server to a user device, the media assets including a first media asset and a second media asset, the method comprising:

receiving a request for delivering a web page content to the user device having a processor and a memory (figure 9, paragraph 58);

determining whether the first media asset resides in the memory of the user device, in response

Art Unit: 2421

to the receiving of the request (local EPG database 600 figure 6, stores several media assets including artwork, thumbnail images, video trailers and the content itself, paragraph 65 and 139-140);

if the determining determines that the first media asset resides in the memory of the user device, presenting the first media asset residing in the memory of the user device as part of presenting the web page content (paragraph 139-140);

if the determining determines that the first media asset does not reside in the memory of the user device, presenting the second media asset residing in the memory of the user device as part of presenting web page content as a substitute for the presenting of the first media asset as part of presenting the web page content (paragraph 139-140).

Marsh is silent about wherein the second media asset requires a lower network bandwidth for delivery to the user device than the first media asset.

In an analogous art, Lawler discloses determining if a first media asset is available present the media asset (130 figure 5), if the media asset is not available present a substitute media asset (132 figure 5), wherein the second media asset requires a lower network bandwidth for delivery to the user device than the first media asset (video is a plurality of still images; therefore, it requires more bandwidth to deliver than a single still image paragraph 48-51).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Marsh's method with the teachings of Lawler. The motivation would have been to present a richer media asset for the benefit of giving more information to the user.

Regarding claim 76, Marsh and Lawler disclose the method of claim 74, wherein the presenting of the second media asset includes combining the second media asset with additional information (Lawler as shown in figure 3b where text description 96 is presented with preview window 94).

Claims 81, 87, and 93 are rejected on the same grounds as claim 76.

Art Unit: 2421

Regarding claim 77, Marsh and Lawler disclose the method of claim 74, wherein the first media asset is a video and the second media asset is a photo (Lawler paragraph 37).

Claims 82, 88, and 94 are rejected on the same grounds as claim 77.

Regarding claim 78, Marsh and Lawler the method of claim 74 further comprising downloading the first media asset onto the user device prior to the receiving of the request for delivering the web page content to the user device (Marsh paragraph 57, 61 and 65).

Claims 83, 89, and 95 are rejected on the same grounds as claim 78.

Regarding claim 79, Marsh discloses a remote server for method of presenting media assets to a user device, the media assets including a first media asset and a second media asset, the remote server comprising:

a processor (226 figure 2) configured to:

receive a request for delivering a web page content to the user device having a processor and a memory (figure 9, paragraph 58);

determine whether the first media asset resides in the memory of the user device, in response to the processor receiving the request (figure 6, paragraph 65 and 139-140);

if the processor determines that the first media asset resides in the memory of the user device, the processor is further configured to present the first media asset residing in the memory of the user device as part of presenting the web page content (paragraph 139-140);

if the processor determines that the first media asset does not reside in the memory of the user device, the processor is further configured to present the second media asset residing in the memory of the user device as part of presenting web page content as a substitute for presenting the first media asset as part of presenting the web page content (paragraph 139-140).

Marsh is silent about wherein the second media asset requires a lower network bandwidth for delivery to the user device than the first media asset.

Art Unit: 2421

In an analogous art, Lawler discloses determining if a first media asset is available present the media asset (130 figure 5), if the media asset is not available present a substitute media asset (132 figure 5), wherein the second media asset requires a lower network bandwidth for delivery to the user device than the first media asset (video is a plurality of still images; therefore, it requires more bandwidth to deliver than a single still image paragraph 48-51).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Marsh's method with the teachings of Lawler. The motivation would have been to present a richer media asset for the benefit of giving more information to the user.

Regarding claim 84, Marsh discloses a method of presenting media assets by a user device having a processor and a memory, the media assets including a first media asset and a second media asset, the method comprising:  
transmitting a request for a delivery of a web page content to a remote server (figure 9, paragraph 58);  
determining whether the first media asset resides in the memory of the user device, after the transmitting of the request (figure 6, paragraph 65 and 139-140);  
if the determining determines that the first media asset resides in the memory of the user device, presenting the first media asset residing in the memory of the user device as part of presenting the web page content (paragraph 139-140);  
if the determining determines that the first media asset does not reside in the memory of the user device, presenting the second media asset residing in the memory of the user device as part of presenting web page content as a substitute for the presenting of the first media asset as part of presenting the web page content (paragraph 139-140).

Marsh is silent about wherein the second media asset requires a lower network bandwidth for delivery to the user device than the first media asset.

In an analogous art, Lawler discloses determining if a first media asset is available present the media asset (130 figure 5), if the media asset is not available present a substitute media asset (132 figure 5), wherein the second media asset requires a lower network bandwidth

Art Unit: 2421

for delivery to the user device than the first media asset (video is a plurality of still images; therefore, it requires more bandwidth to deliver than a single still image paragraph 48-51).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Marsh's device with the teachings of Lawler. The motivation would have been to present a richer media asset for the benefit of giving more information to the user.

Regarding claim 85, Marsh and Lawler disclose the method of claim 84, wherein a different page is created using a web browser of the user device if the determining determines that the first media asset does not reside in the memory (Marsh EPG with thumbnail paragraph 139-140).

Claim 91 is rejected on the same grounds as claim 85.

Regarding claim 86, Marsh and Lawler disclose the method of claim 84, wherein a different page is created using a web browser of the user device if the determining determines that the first media asset resides in the memory (Marsh EPG with generic image paragraph 139-140).

Claim 92 is rejected on the same grounds as claim 86.

Regarding claim 90, Marsh discloses a user device for presenting media assets to a user, the media assets including a first media asset and a second media asset, the user device comprising:

a memory (figure 6 and 8); and a processor (figure 6 and 8) configured to:

transmit a request for a delivery of a web page content to a remote server (figure 9, paragraph 58);

determine whether the first media asset resides in the memory, of the user device, after the transmitting of the request (figure 6, paragraph 65 and 139-140);

Art Unit: 2421

present the first media asset residing in the memory of the user device as part of presenting the web page content if the first media asset resides in the memory of the user device (paragraph 139-140);

present the second media asset residing in the memory of the user device as part of presenting web page content as a substitute for the presenting of the first media asset, as part of presenting the web page content if the first media asset does not reside in the memory of the user device (paragraph 139-140).

Marsh is silent about wherein the second media asset requires a lower network bandwidth for delivery to the user device than the first media asset.

In an analogous art, Lawler discloses determining if a first media asset is available present the media asset (130 figure 5), if the media asset is not available present a substitute media asset (132 figure 5), wherein the second media asset requires a lower network bandwidth for delivery to the user device than the first media asset (video is a plurality of still images; therefore, it requires more bandwidth to deliver than a single still image paragraph 48-51).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Marsh's device with the teachings of Lawler. The motivation would have been to present a richer media asset for the benefit of giving more information to the user.

5. Claims 75 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsh in view of Lawler in view of Allibhoy et al., US 5,818,440.

Regarding claim 75, Marsh and Lawler disclose the method of claim 74.

Marsh and Lawler are silent about wherein the determining of whether the first media asset resides in the memory of the user device includes: detecting a presence of a token corresponding to the first media asset.

In an analogous art, Allibhoy discloses detecting a presence of a token corresponding to a media asset (abstract, figure 3, col. 2, lines 733, col. 5, line 63 to col. 6, line 19).

Therefore, it would have been obvious to one of ordinary skill in the art to modify Marsh and Lawler's method with the teachings of Allibhoy. The motivation would have been to make



Art Unit: 2421

sure the asset is stored on the memory for the benefit of presenting the media to the user.

Claim 80 is rejected on the same grounds as claim 75.

### **Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OSCHTA MONTOYA whose telephone number is (571)270-1192. The examiner can normally be reached on M-F 8:00 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William Trost/  
Supervisory Patent Examiner, Art Unit  
2421

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